



## Senate

General Assembly

**File No. 256**

January Session, 2013

Substitute Senate Bill No. 819

*Senate, April 2, 2013*

The Committee on Planning and Development reported through SEN. CASSANO, S. of the 4th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT CONCERNING THE POSSESSIONS OF DECEASED TENANTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 47a-11d of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 (a) If the sole occupant of a dwelling unit subject to a monthly lease  
4 or a lease for a term has died and the landlord has complied with any  
5 provisions of any such lease permitting termination upon the death of  
6 the occupant, the landlord may elect to act in accordance with the  
7 provisions of this section. If the landlord elects to act in accordance  
8 with the provisions of this section, such landlord shall send notice to  
9 the emergency contact designated by the occupant, if any, and to the  
10 next of kin of such occupant, if known, [of such occupant] at the last-  
11 known address both by regular mail, postage prepaid, and by certified  
12 mail, return receipt requested, stating that (1) the occupant has died,  
13 (2) the landlord intends to remove any possessions and personal

14 effects remaining in the premises and to rerent the premises, [and] (3)  
15 the emergency contact or next of kin should immediately contact the  
16 Probate Court for information as to how to reclaim such possessions  
17 and personal effects, and (4) if [the next of kin does not reclaim] such  
18 possessions and personal effects are not reclaimed within sixty days  
19 after the date of such notice, such possessions and personal effects will  
20 be disposed of as permitted by this section. The notice shall be in clear  
21 and simple language and shall include a telephone number and a  
22 mailing address at which the landlord can be contacted and the  
23 telephone number of the Probate Court for the district in which the  
24 dwelling unit is located.

25 (b) (1) If notice is sent by the landlord [to the next of kin, if known,]  
26 as provided in subsection (a) of this section, or (2) if the landlord does  
27 not have an emergency contact or know any next of kin, the landlord  
28 shall file an affidavit with the [probate court] Probate Court having  
29 jurisdiction concerning the possessions and personal effects of the  
30 deceased occupant. Such affidavit shall include the name and address  
31 of the deceased occupant, the date of death, the terms of the lease, and  
32 the names and addresses of the emergency contact, if any, and the next  
33 of kin, if known.

34 (c) If the landlord acts in accordance with the provisions of this  
35 section, the landlord shall not be required to serve a notice to quit as  
36 provided in section 47a-23 and bring a summary process action as  
37 provided in section 47a-23a to obtain possession or occupancy of the  
38 dwelling unit. Nothing in this section shall relieve a landlord from  
39 complying with the provisions of sections 47a-1 to 47a-20a, inclusive,  
40 and sections 47a-23 to 47a-42, inclusive, if the landlord knows, or  
41 reasonably should know, that the dwelling unit has not been  
42 abandoned.

43 (d) On or after thirty days after the date of the filing of the affidavit  
44 pursuant to subsection (b) of this section, the landlord shall inventory  
45 any possessions and personal effects of the deceased occupant in the  
46 premises and shall file a copy of such inventory with the [court of

47 probate] Probate Court under subsection (b) of this section. The  
48 landlord may not remove [them] such possessions and personal effects  
49 until fifteen days after such inventory is [taken] filed. Thereafter, the  
50 landlord may remove and securely store such possessions and  
51 personal effects for an additional fifteen days. [The next of kin may  
52 reclaim such possessions and personal effects from the landlord within  
53 such sixty-day period. If the next of kin does not reclaim] If such  
54 possessions and personal effects are not reclaimed by the end of such  
55 sixty-day period and the landlord has complied with the provisions of  
56 this section, the landlord may [dispose of them in accordance with  
57 section 47a-42.] obtain from the Probate Court having jurisdiction a  
58 certificate indicating that the landlord has filed an inventory in the  
59 court pursuant to this subsection and that sixty days have elapsed  
60 since that filing. The landlord may file such certificate in the superior  
61 court having jurisdiction over the premises of the deceased occupant.  
62 There shall be no fee for such filing, and the clerk of such court shall  
63 open a summary process file. Such certificate shall be treated in the  
64 same manner as a judgment of the superior court pursuant to chapter  
65 832 and shall have the same effect and shall be subject to the same  
66 procedures, defenses and proceedings for reopening, vacating or  
67 staying as a judgment of the superior court. After the clerk opens the  
68 summary process file, the landlord may obtain an execution and the  
69 possessions and personal effects of such deceased occupant may be  
70 removed by a state marshal pursuant to such execution and delivered  
71 to the place of storage designated for such purposes by the chief  
72 executive officer of the municipality in which the dwelling unit is  
73 located.

74 (e) Before the possessions and personal effects of a deceased tenant  
75 are removed pursuant to an execution issued under subsection (d) of  
76 this section, the state marshal charged with carrying out such removal  
77 shall give the chief executive officer of the municipality in which the  
78 dwelling unit is located twenty-four-hours' notice of the removal,  
79 stating the date, time and location of such removal as well as a general  
80 description, if known, of the types and amount of property to be  
81 removed from the premises and delivered to the designated place of

82 storage and a copy of the inventory prepared by the landlord pursuant  
83 to subsection (d) of this section, annotated to indicate any items that  
84 have been reclaimed. Before giving such notice to the chief executive  
85 officer of the municipality, the state marshal shall use reasonable  
86 efforts to locate and notify the emergency contact, if any, and the next  
87 of kin, if known, of the date and time such removal is to take place and  
88 of the possibility of a sale pursuant to this subsection. The property  
89 may be reclaimed at any time prior to the actual sale of such property  
90 by an executor or administrator appointed by the Probate Court or by  
91 an individual designated by such court in accordance with section 45a-  
92 273, upon payment to the chief executive officer of the expense of  
93 storage. If such possessions and effects are not reclaimed within fifteen  
94 days after such removal and storage, the chief executive officer shall  
95 sell the same at public auction, after using reasonable efforts to locate  
96 and notify the next of kin of such sale and after posting notice of such  
97 sale for one week on the public signpost nearest to the premises from  
98 which the possessions and personal effects were removed, or at some  
99 exterior place near the office of the town clerk. The proceeds of the sale  
100 shall be applied to a reasonable charge by the town for storage of such  
101 possessions and personal effects. Any remaining proceeds shall be  
102 turned over to the estate of the deceased occupant or, if no such estate  
103 proceedings are commenced within thirty days after such sale, the  
104 chief executive officer shall turn over the net proceeds of the sale to the  
105 State Treasurer, who shall treat such proceeds as escheated property  
106 pursuant to part III of chapter 32.

107 [(e)] (f) If an application for probate of a will or letters of  
108 administration is filed with the [court of probate] Probate Court  
109 having jurisdiction concerning the possessions and personal effects of  
110 the deceased occupant within fifty-five days of the filing of the  
111 affidavit of the landlord as provided in subsection (b) of this section,  
112 the [probate court] Probate Court shall immediately notify the  
113 landlord of such filing and any action of the landlord pursuant to the  
114 provisions of this section shall cease.

115 [(f)] (g) No action shall be brought under section 47a-43 against a

116 landlord who takes action in accordance with the provisions of this  
117 section.

This act shall take effect as follows and shall amend the following sections:
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Section 1	<i>October 1, 2013</i>	47a-11d
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**PD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill modifies statute with regard to actions of landlords and does not result in a fiscal impact.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sSB 819*****AN ACT CONCERNING THE POSSESSIONS OF DECEASED TENANTS.*****SUMMARY:**

This bill modifies the process landlords may use instead of an eviction action to regain possession of a rental unit after the death of the only tenant living there. The modifications include notice to the tenant's emergency contact and a process for removing the tenant's belongings without a judgment.

By law, when the sole tenant in a rental unit dies, and the landlord has complied with any provisions in a lease permitting termination upon the tenant's death, the landlord may take specific actions to remove the deceased tenant's belongings and reclaim possession of the unit. Landlords who follow this process are protected against an action for entering a dwelling unit without consent.

EFFECTIVE DATE: October 1, 2013

**NOTICE OF INTENT TO REMOVE POSSESSIONS**

Under current law, landlords must send a notice to the last-known address of the deceased tenant's next of kin. The bill requires the landlord to also send a notice to the last-known address of the tenant's emergency contact, if one is designated. As under current law, the notice must (1) be sent by regular and certified mail, return receipt requested, (2) be in clear and simple language, and (3) include the landlord's telephone number and address.

Under current law, the notice must state that the (1) tenant has died, (2) landlord intends to remove his or her belongings from the rental unit and re-rent the premises, and (3) landlord will dispose of

belongings not reclaimed within 60 days. The bill requires the notice to also (1) state that the emergency contact or next of kin should immediately contact the probate court for information on how to reclaim the possessions and (2) include the phone number for the probate court district in which the unit is located.

### **PROBATE COURT AFFADAVIT**

Landlords must file an affidavit with the probate court regarding the deceased tenant and his or her personal belongings. The affidavit must include the deceased tenant's name and address, the date he or she died, the terms of the lease, and the names and addresses of any known next of kin. The bill requires the landlord to also include the emergency contact's name and address.

As under existing law, if the court receives a request to determine the validity of a will or appoint an administrator of a decedent's estate within 55 days of the date the affidavit is filed, it must immediately notify the landlord. A landlord who receives this notice cannot dispose of the tenant's property or re-rent the dwelling unit as indicated above.

### **LANDLORD'S REMOVAL OF DECEASED TENANT'S PROPERTY**

No sooner than 30 days after filing the affidavit, the landlord must file an inventory of the tenant's belongings, store them, and, after 60 days, dispose of them in the same manner in which he or she would an evicted tenant's property, which requires a state marshal executing an eviction order to remove the possessions and deliver them to a town-designated storage facility for sale at public auction.

The bill instead allows the landlord, at the end of the 60-day period following the filing of the affidavit, to obtain from the probate court a certificate indicating that (1) he or she has filed the inventory and (2) 60 days have elapsed since that filing (see COMMENT). The landlord may file the certificate, at no cost, in the Superior Court for the district where the rental unit is located. The court clerk must use the certificate to open a summary process file. The certificate must be treated in the same manner as a summary process judgment and have



the same effect and be subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as the judgment.

The landlord may execute the judgment by having a state marshal deliver the deceased tenant's possessions to a town-designated storage facility for sale at public auction.

The bill requires the state marshal executing the order to generally follow the same steps he or she would follow for removing an evicted tenant's possessions. This means he or she must (1) attempt to notify the deceased tenant's emergency contact and next of kin of the date and time of the removal and possible sale of the property and (2) give the chief executive officer (CEO) of the town where the rental unit is located 24-hours notice of the removal and a general description, if known, of the property to be removed and copy of the filed inventory.

The deceased tenant's property may be reclaimed at any time before the auction by a probate-court appointed executor or administrator, after paying the town's storage expenses. If the property is not reclaimed within 15 days of its removal, the CEO can sell it at a public auction. He or she must make reasonable efforts to locate and notify the next of kin of the sale, including posting a notice (1) one week in advance of the auction on a public sign post located near the deceased tenant's rental unit or (2) at some exterior place near the town clerk's office.

Within 30 days after the auction, the CEO must turn over the proceeds to the (1) deceased tenant's estate or (2) if estate proceedings are not initiated during this period, state treasurer for deposit under the state's escheat laws.

## **COMMENT**

### ***Timeline for Obtaining Probate Court Certificate***

The bill allows a landlord to obtain a certificate from the probate court 60 days after filing the affidavit, indicating that 60 days have elapsed since the landlord filed the inventory. However, since the landlord must wait at least 30 days after filing the affidavit to file the

inventory, only 30 days would have elapsed since that filing. Thus, a landlord could not receive a certificate under the bill.

**COMMITTEE ACTION**

Planning and Development Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/13/2013)